

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

DISABILITY RIGHTS MISSISSIPPI, LEAGUE
OF WOMEN VOTERS OF MISSISSIPPI,
WILLIAM EARL WHITLEY, MAMIE
CUNNINGHAM, and YVONNE GUNN,

Plaintiffs,

v.

LYNN FITCH, in her official capacity as
Attorney General of the State of Mississippi;
MICHAEL D. WATSON, JR., in his official
capacity as Secretary of State of Mississippi;
GERALD A. MUMFORD, in his official capacity
as Hinds County Attorney; and ELIZABETH
AUSBERN, in her official capacity as Chickasaw
County Attorney;

Defendants.



Civil Action No.

DECLARATION OF WILLIAM EARL WHITLEY

Pursuant to 28 U.S.C. § 1746, I, William Earl Whitley, declare as follows:

1. I am over the age of 18, and I am competent to make this declaration. I provide this declaration based upon my personal knowledge. I would testify to the facts in this declaration under oath if called upon to do so.
2. I am a Plaintiff in the above-captioned case.
3. I am 79 years old, a Black man, and a resident and registered voter in Okolona, MS. Before Okolona, I lived in Aberdeen, MS which is also where I was born.
4. I am an Army veteran who served in the Vietnam War.

5. During my time in the Vietnam War, I was exposed to Agent Orange. Due to this exposure, I was diagnosed with diabetes, and suffered from a painful infection in both of my legs. I eventually had to have both of my legs amputated.
6. I lost my left leg approximately in 2016, and my right one in 2019. I now use prosthetics, an electric scooter, and a rollator to move around. However, it is still hard for me to leave my home.
7. Every day, I suffer from phantom pain due to my amputation. Some days, I am able to deal with the pain and discomfort with medicine. But there are other days where the pain is too severe that I cannot put on my prosthetics. My doctor told me that I am going to suffer this pain for the rest of my life.
8. Additionally, my legs often become swollen and cannot fit in the prosthetics. I have to wait for them to shrink. Even if I am able to use my prosthetics, my doctor told me to walk as little as possible because if I were to fall and break the bone that goes into the prosthetic, they may have to amputate higher up on my leg.
9. If I cannot use my prosthetics, it is impossible for me to maneuver in or out of my home. Whether I can leave my home on a given day depends on how much pain I am in when I wake up. There are days where I can get the mail with my prosthetics and electric scooter, but it is still difficult for me to do so, and I risk further amputation if there is an accident. There are also days when the pain and discomfort is especially severe that I rely on others like my neighbor to assist me in retrieving it.
10. I recently received a new pair of prosthetics. It had taken me almost a year to get used to walking in the prior pair.

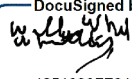
11. Voting is important to me because I know how hard people worked and what they went through to get this right. My brother ran for the United States Senate in 1966 in Mississippi, and I was unable to vote for him because of how difficult it was to vote as a Black man in Mississippi.
12. Just like in 1966 for my brother's election, S.B. 2358 effectively silences my political voice.
13. Generally, I used to vote in-person when I had both of my legs. However, there have been elections where I wanted to vote but could not because I was unable to go to the polling place due to either the pain of the infection or my amputation.
14. I know Ms. Cunningham and Yvonne Gunn from church. They are knowledgeable about voting, and I relied on both in a prior election to vote by mail. Ms. Cunningham assisted me in registering to vote absentee, and Ms. Gunn came to my home and assisted me in completing and returning the ballot in the mail for me.
15. I am aware that S.B. 2358 generally restricts the delivery of ballots by individuals other than the voter's family member, household member, or caregiver. The statute does not define those categories of people.
16. I am not a relative of either Ms. Cunningham or Ms. Gunn. Neither one lives in my house. Neither one works to assist me with my daily life.
17. I specifically trust Ms. Cunningham and Ms. Gunn to assist me with my ballot.
18. I am afraid that if I ask either for their help to vote in future elections, they will be prosecuted under S.B. 2358.
19. I intend to vote in the August and November elections. If I cannot use Ms. Cunningham and Ms. Gunn, then I am not sure how I will be able to vote. I live alone, I do not have a

caregiver, and I do not have family members who live in Okolona. Even if I did have access to someone who is permitted to assist me under S.B. 2358, I specifically trust Ms. Gunn and Ms. Cunningham with my ballot. They are the assistors of my choice because they have helped me in the past, they are reliable, they will not alter my ballot, and I trust that they know how to make sure my vote gets counted. That is what is important for me. Ms. Gunn and Ms. Cunningham are knowledgeable about voting, and I know that when I am in too much pain, I can call them to assist me in making sure my ballot is counted.

20. If S.B. 2358 goes into effect and neither Ms. Gunn nor Ms. Cunningham is able to assist me, I may attempt to vote by mail on my own if I can manage the pain and can use my prosthetics at that time, but it would still be difficult and risk further injuring my legs. There is a strong possibility that I will not be able to vote by mail on my own, because of my pain and limited mobility. In that situation, I cannot cast a ballot without relying on the assistor of my choice—Ms. Gunn or Ms. Cunningham—to drop off my ballot. If S.B. 2358 goes into effect, I will not be able to rely on that assistance to deliver my ballot, and I may not be able to vote.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this May 29th day of May 2023

DocuSigned by:

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William Earl Whitley